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INTERNATIONAL COPPER STUDY GROUP
Inaugural Meeting
Geneva, 22 June 1992
Item 8 of the provisional agenda

ADOPTION OF THE RULES OF PROCEDURE

At the meeting convened under paragraph 22(d) of the terms of reference of the International Copper Study Group in Geneva on 23 and 24 January 1992, an informal initial exchange of views took place on the provisional draft rules of procedure of the International Copper Study Group, as contained in TD/B/C.1/PM/COPPER/3, and on proposed amendments by the United States of America to these rules. This draft, together with the proposed amendments by the United States of America, are presented in annex I.

At the same meeting, it was agreed that members should send their views on the draft rules and the amendments thereto to the UNCTAD secretariat before the inaugural meeting so that they could be circulated to the members of the Group. The comments by Norway are presented in Annex II. Other views or comments received subsequently are presented in addenda to the present document.

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Annex I

DRAFT PROVISIONAL RULES OF PROCEDURE OF THE INTERNATIONAL COPPER STUDY GROUP, TOGETHER WITH PROPOSED AMENDMENTS BY THE UNITED STATES OF AMERICA

Note: Additions or changes to the text in TD/B/C.1/PM/COPPER/3 are highlighted by square brackets, e.g. [...], and text which has been deleted or replaced is shown between double parentheses, e.g. ((...)).

Headquarters

Rule 1

The headquarters of the Group shall be in .... until the Group decides otherwise.

Official and working languages

Rule 2

The official and working languages of the Group for interpretation purposes at general and special sessions and for all official documents relating to the general and special sessions shall be [English, French, ((Russian)) and Spanish.] Any delegate wishing to speak or to receive official documentation in any other language shall be responsible for interpretation and translation.

Rule 3

Written communication(s) to the Group may be made in any of the official languages.

Sessions

Rule 4

The Group shall hold [at least] one general session each calendar year at such a date and place as it may decide, [provided the hosting government pays any additional expenses over and above the cost of holding the meeting at the headquarters].

Rule 5

The Group may hold special sessions whenever so requested by a simple majority of its members, or by the Secretary-General in agreement with the Chairman.

Rule 6

Notice of any session and the provisional agenda for the session shall be communicated to the members by the Secretary-General in consultation with the Chairman at least 30 days in advance, expect in cases of emergency, when a notice must be communicated at least 15 days in advance. In cases of emergency, the notice shall state the nature of the emergency.

Rule 7

The provisional agenda for each session shall be prepared by the Secretary-General in consultation with the Chairman. If a member wishes a particular matter to be discussed at a session the member shall, if possible, notify the Secretary-General 60 days before the commencement of the session, including in that notification a written explanation.

Rule 8

Each member shall endeavour to notify the Secretary-General not later than five days before the commencement of the session of the names of the delegates, alternates and advisers designated to represent it at a session.

Conduct of business

Rule 9

The quorum for any meeting shall be the presence of a simple majority of the members, [provided that such majority includes members responsible for at least half of the total budget].

Rule 10

The Group shall elect for each [calendar] year a Chairman, a First Vice-Chairman and a Second Vice-Chairman.

Rule 11

In the temporary absence of the Chairman, his/her duties shall be exercised by the First Vice-Chairman, or in his/her absence, by the Second Vice-Chairman. In the event of the permanent absence of all of them, the Group, which shall be temporarily presided over by the Secretary-General, may elect new officers [for the remainder of the calendar year] from among the delegates or alternates as may be required.

Rule 12

[All] decisions, except as otherwise specified in the terms of reference,] shall normally be taken by consensus ((and without a vote)). [No vote shall be taken until the Chairman determines that all efforts to achieve a consensus have been exhausted]. If a vote is necessary, it may be taken by a show of hands, roll-call or secret ballot. [Decisions for which a vote is necessary shall be taken by a simple majority of the members present and voting, provided that such majority includes members responsible for at least three quarters of the total budget, except for the election of officers or where otherwise specified in the rules of procedure]. ((In accordance with the request, a simple majority vote of the members present will confirm any decision except where otherwise specified in the rules of procedure)). [Officers will be elected by a two-thirds majority vote of the members present, which may be taken by secret ballot.]

Rule 13

During the discussion of any matter, a delegate may raise a point of order and may move the closure or adjournment of the debate. In each such case the Chairman shall immediately state his/her ruling, which shall stand unless overruled by [a decision in accordance with rule 12]. ((the meeting)).

Rule 14

Each member shall be entitled to one vote.

Rule 15

A delegate exercising the function of the Chairman shall have no vote while presiding, but may appoint another member of his/her delegation, or of another delegation to vote in his/her place.

Rule 16

When abstaining a member shall be deemed not to have cast its vote.

Rule 17

The Chairman of the Standing Committee may arrange for the Group to reach decisions on any matter by correspondence. For this purpose a communication shall be sent to members inviting them to record their [views or] votes within a specified time-limit, which shall not be less than 45 days. The communication shall state clearly the matter at issue and the proposals in respect of which members are invited to [decide] ((vote)) for or against. At the end of the specified time, the Secretary-General shall notify all members of the decision reached. If the replies of three or more members contain objections to the [use

of the] correspondence procedure [to decide the matter at issue], no [decision] ((vote)) will be [taken] ((recorded)) and the matter shall be held over for decision at the next session of the Group.

Rule 18

Minutes of [each] meeting ((s)) shall [be prepared by the Secretary-General and shall] consist of a summary record of the proceedings, including details of [decisions taken] ((voting)); such record shall be provisional in the first instance. If any delegation wishes to amend any of its statements reported in the provisional record, such amendment shall be made by notification to the Secretary-General within 30 days of the issue of that record and no other changes shall be made unless approved by the Group at its next session.

Rule 19

Information which is the property of the Group, reports of proceedings and all other documents of the Group and its various committees and other bodies shall be confidential until and unless the Group, or the Standing Committee as appropriate, decides otherwise.

Rule 20

Meetings of the Group shall be private unless the members present decide otherwise.

Rule 21

The Group shall keep such records as are required for the performance of its functions under the terms of reference.

Rule 22

The Group may invite any non-member State or any appropriate intergovernmental or non-governmental organization interested in some or all aspects of the copper economy to attend, as observers, any of the meetings of the Group.

Finance

Rule 23

The budget of the Group shall be prepared and the accounts kept in the [same currency as the United Nations budget] ((currency of the host country)). The financial year of the Group shall be from 1 January to 31 December. If the Group is established on or before 30 June, its initial budget shall be for the remainder of the calendar year. If it is established on or after 1 July, its initial

budget shall be for the period up to 31 December of the succeeding year. In either case the initial budget shall be prepared and approved by the Group at its first session. Thereafter, the annual budget for the ensuing year shall be drawn up by the Secretary-General and [forwarded to members at least 30 days prior to] ((submitted for)) consideration by the Standing Committee. ((and for approval)) The budget will be approved by the Group at its general session.

Rule 24

Following approval of the budget, the Secretary-General shall immediately notify each member of the amount of its contribution in accordance with paragraph [15(a)] ((14 (a))) of the terms of reference. Contributions shall be due and payable in [U.S. dollars or other freely-usable currency] ((in the currency of the host country)) on 1 January of the financial year in question and must be paid by 30 June of the same year. Should any member not have paid its contribution by the time of the meeting of the Standing Committee in the second half of the financial year, it shall explain the delay at that meeting. Any member in arrears at that time for the preceding [two] financial year [s] shall be deprived of its voting rights and may, by decision of the Group, be suspended from membership for so long as it remains in arrears.

Rule 25

Any member joining the Group in the course of a financial year shall pay a pro rata contribution for the remainder of the year. Contributions received from new members shall not affect contributions by existing members in the financial year in question, but shall be taken into account in assessing contributions in the ensuing year.

Rule 26

The scale of budget contributions may be set or amended only by the Group, and at a general session or special session. The scale of contributions shall normally be determined [by consensus] at the last scheduled session of each year for the ensuing year. ((, by consensus and without a vote. If a vote is necessary, a two-thirds majority vote of the members present shall be required.))

Rule 27

The Secretary-General shall be responsible for the administration of the Group's accounts.

Rule 28

The Secretary-General shall circulate annually to all members a statement of account certified by the [Chairman of the Finance Committee,] ((Finance member

of the Standing Committee,)) the Secretary-General and an independent auditor of recognized standing.

Rule 29

The adoption of the budget shall be the authority to incur the expenditures set out therein. Within the limit of the overall budget and with the approval of the Standing Committee through such mechanism [s] as it may establish, any appropriation under any one heading of the budget may be applied to any other heading.

Rule 30

Travel and subsistence expenses of delegations of members to the Group or to any of its subordinate bodies shall not be a charge upon the funds of the Group.

Standing Committee

Rule 31

The Standing Committee shall elect for each [calendar] year its Chairman, two Vice-Chairmen and the [Chairman and four other members of a Finance Committee] ((Finance member.))

Rule 32

The Standing Committee shall be governed by the rules of procedure established by the Group but these rules may be supplemented by the Committee's own rules where the authority therefor has been delegated by the Group. [The working languages of the Committee shall be the working languages of the Group. However, in the interests of economy and in order to avoid difficulty in scheduling meetings, the Committee shall normally work in English unless other prior arrangements have been made. Documents for the Committee may be submitted in one of the other working languages set out in rule 2. The secretariat shall as far as possible arrange for the translation of such documents into English].

Rule 33

The Standing Committee shall hold at least two regular meetings each calendar year at such place as it may from time to time decide, [provided the hosting government pays any additional expenses over and above the cost of holding the meeting at the headquarters]. As a general rule, at least one of those meetings shall be held in the half of the year other than that in which the general session is held.

Rule 34

The Standing Committee shall keep the copper situation under review and make such recommendations to the Group as it may deem advisable. It shall carry out such other tasks as may be delegated to it by the Group. In addition, it shall exercise appropriate responsibility for the work of the secretariat's preparation of a draft budget and other financial action in accordance with rule 23. All financial transactions on behalf of the Group shall be notified regularly to the Standing Committee.

Other committees or bodies

Rule 35

The Group ((s)) may establish subsidiary committees or bodies and delegate to one or more of them the exercise of any of its powers, except those which, in accordance with the provisions of its terms of reference, require a two-thirds majority vote of the members present. Nothwithstanding such delegation, the Group may at any time discuss and decide any issue that may have been delegated to any of its subsidiary committees or bodies. ((If a vote is requested on the question of the establishment of a subsidiary committee or body, it shall require a two-thirds majority vote of the members present.))

Rule 36

Officers of subsidiary committees or bodies established by the Group shall be elected each [calendar] year.

Rule 37

Subsidiary committees or bodies shall report to the Group at least once a year on their work and on all decisions taken by them.

Rules 38

The Group may revoke any power delegated to a subsidiary committee or body.

Secretariat

Rule 39

The Group shall appoint the Secretary-General.

Rule 40

The terms and conditions of appointment of the Secretary-General and the terms and conditions of employment of staff shall be determined by the Group and shall include provisions expressly prohibiting any conflict of interest.

Rule 41

The Secretary-General shall appoint the staff in accordance with decisions of the Group. ((The number of staff to be appointed shall be determined by the Group. If a vote is requested, a two-thirds majority vote of members present shall be required. The staff shall be responsible to the Secretary-General.))

Rule 42

In the performance of their duties, the Secretary-General and other staff shall not seek or receive instructions ((relating to copper)) from any member or from any other authority external to the Group. They shall refrain from any action which might reflect [adversely] on their position as international officials ultimately responsible to the Group. Each member shall respect the exclusively international character of the responsibilities of the Secretary-General and the other staff and shall not seek to influence them in the discharge of their responsibilities.

Disputes

Rule 43

Disputes concerning the interpretation or application of these rules of procedure shall be referred to the Chairman of the Group for decision by the Group, in accordance with rule 12.

Amendment

Rule 44

The rules of procedure shall normally be amended by consensus and without a vote. ((If a vote is necessary, it shall require a two-thirds majority vote of the members present at a general session or a special session of the Group.)) Proposed amendments shall be circulated by the Secretary-General to all members at least two months in advance of the session.

Annex II

COMMENTS BY NORWAY

International Copper Study Group (ICSG): Proposed Rules of Procedure.

From the Norwegian side we have the following comments on the draft rules of procedure for the ICSG as proposed by the United States.

Rule 4

a) The first line to read: "The Group shall normally hold one general session ----".

b) Line 3-4 to read: "--- provided any additional expenses over and above the cost of holding the meeting at the headquarters are not incurred by the Group."

Rule 9

The proposal in the last part of the rule that "---provided that such a majority includes members responsible for at least half of the total budget", constitutes in our view a departure from normal United Nations practice and principles, according to which member States are put on an equal footing for voting purposes. Such an innovation may constitute a precedent also in other areas. The possible consequences are not easily discernible, and we would accordingly not be in favour of such a formula.

Rule 12

Much the same objections arise here as under the proposed rule 9. The provision that "members responsible for at least three quarters of the total budget" may, in addition, be at odds with the terms of reference themselves (article 8c,), or rule 14 of the rules of procedure. Nor is it in harmony with the way in which budget shares are allocated. Furthermore, we are not convinced that the attempt to simplify the rules on voting by putting most of them into one rule has been entirely successful.

All in all, we would not be in favour of qualifying the one country - one vote principle. As for the rest, the opinion of United Nations legal counsel should be sought.

Rule 13

This rule would have to be amended accordingly.

Rule 17

Some of the language needs to be clarified, especially in the last part.

Rule 23

The budget currency should be chosen from the point of view of simplifying the day-to-day business of the Group, i.e. in the currency of the host country (as long as this is a freely convertible currency). Given fairly large fluctuations in the value of the US dollar, using the host country currency would also make budget contributions more predictable for the majority of member States.

Given the dates now fixed for the Inaugural Meeting, no problems should arise as regards the possibility of an 18 month budget (which we for internal budgetary reasons would not favour).

In the last line, "will" should be changed to "shall".

Rule 24

This rule would need to be amended accordingly.

The proposal that a member can be in arrears for two financial years before losing voting rights would, in our opinion, encourage late payments, to the detriment of the efficient running of the Group. We therefore prefer this to read "one financial year."

Rule 25

The last part of the rule needs some clarification; the words "... shall be taken into account..." are not precise enough. In our opinion, such new contributions should in principle entail a reduction of other members' budget shares.

Rule 28

We would be in favour of a Finance Committee, the Chairman of which should verify the statement of accounts.

Rule 33

Provision should be made for one of the meetings of the Standing Committee to be held in conjunction with the annual meeting of the Group. As regards the possible extra costs, our comments under rule 4 above are relevant also here.

Rule 35

We would be reluctant to authorize subsidiary bodies to create, in their turn, further subsidiary bodies.

Rule 37

It should be specified that such reports shall be transmitted to the Group without delay.

Rule 39

We would be in favour of a sunset clause for the appointment of the Secretary-General. His/her period of office should be a fixed term, with the possibility of reappointment for one additional term.

Rule 42

We would favour deleting the words, "relating to copper" now in double parentheses. On the other hand, we would prefer keeping the word "adversely", now in brackets.

Rule 44

To avoid possible misunderstandings, the period mentioned in the last line ("two months") should be "60 days".

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Addendum

Annex III

COMMENTS BY CHILE

Comments on the Rules of Procedure of the International Copper Study Group submitted by the UNCTAD secretariat and the United States delegation

1. The most important aspect of the proposed rules concerns the procedure for the adoption of decisions.

Paragraph 8 (b) of the terms of reference of the International Copper Study Group stipulates that the Group, the Standing Committee and such committees and subsidiary bodies as may be established shall take decisions by consensus and without a vote, except in the case of decisions for which "a specific voting majority" is specified in the terms of reference or in the rules of procedure.

Subparagraph (c) of the same paragraph stipulates that each member State shall be entitled to one vote.

In these circumstances, the rules for a quorum for meetings and for the adoption of decision submitted by the United States (rules 9 and 12 of the rules of procedure, respectively) are counter to both the letter and spirit of the terms of reference.

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Under rule 9 of the rules proposed by the United States "The quorum for any meeting shall be the presence of a simple majority of the members, [provided that such majority includes members responsible for at least half of the total budget]."

For its part, rule 12 stipulates that "[All] decisions, except as otherwise specified in the terms of reference,] shall normally be taken by consensus ((and without a vote)). [No vote shall be taken until the Chairman determines that all efforts to achieve a consensus have been exhausted]. If a vote is necessary, it may be taken by a show of hands, roll-call or secret ballot. [Decisions for which a vote is necessary shall be taken by a simple majority of the members present and voting, provided that such majority includes members responsible for at least three quarters of the total budget, except for the election of officers or where otherwise specified in the rules of procedure]. ((In accordance with the request, a simple majority vote of the members present will confirm any decision except where otherwise specified in the rules of procedure)). [Officers will be elected by a two-thirds majority vote of the members present, which may be taken by secret ballot.]"

Thus, a dual requirement which does not appear in the terms of reference is introduced: first of all, for a meeting to be held the presence of a simple majority of members responsible for at least half of the total budget is needed, and, secondly, for the adoption of decisions the majority mentioned above must include members responsible for at least three quarters of the total budget.

This entails a departure from the principle of equal participation by all member States, as their votes are weighted and thus not of equal value.

Consequently, it would seem more reasonable to establish quorums without any reference to member States' participation in the budget, but solely on the basis of the number of members with voting rights present, thus preventing the presence or absence of one of the members responsible for a larger share of the budget from being used to exert pressure or to hinder the Group in performing the role vested in it by the terms of reference.

In order for meetings to be held it would be more appropriate to adopt a quorum based on a simple majority, in compliance with the rule laid down in the provisional rules of procedure submitted by the UNCTAD secretariat.

Decisions should be adopted by consensus, or in the case of decisions concerning the budget, the requirement of a two-thirds majority of the members present and voting could be introduced. For other decisions, a simple majority would suffice.

In this connection, it should be pointed out that the rules of procedure of the International Nickel Study Group stipulate the "presence of a simple majority of the Members" as a quorum for their meetings and for the adoption of decisions. The rules of procedure of the International Lead and Zinc Study Group require a quorum of "a majority of its members" for meetings and "a two-thirds majority of members present and voting" in the case of decisions concerning the budget. It should also be borne in mind that in both cases consensus is the basic rule for the adoption of decisions.

2. The following amendments are also important:

(a) Rule 4: Chile believes that it is important to determine who would be responsible for any additional expenditure entailed by meetings which are not held at the Group's headquarters. Accordingly, we agree with the proposed amendment submitted by the United States which stipulates that such expenditure shall be born by the hosting Government.

(b) Rule 13: It follows from our objection to the proposed amendment to rule 12 that we also object to the proposed amendment to rule 13.

(c) Rule 23: In Chile's view the need to ensure the efficient day-to-day working of the Group makes it necessary to adopt the United States dollar as the currency in which the accounts shall be kept and the budget prepared.

(d) Rule 24: This will need to be amended accordingly.

Moreover, this rule concerns the suspension of the voting rights of countries that have been in arrears for two financial years.

In our view, this solution encourages late payment and is not conducive to the efficient operation of the Group. Accordingly, Chile agrees with Norway that the period should be reduced to one financial year.

(e) Rule 32: The United States proposal concerning the normal working language of the Standing Committee (English only) is a solution which in our view is neither appropriate nor in accordance with the composition of the Group. Accordingly, Chile considers that the normal working languages of the Standing Committee should be the official languages of the Group (English, French and Spanish).

(f) Rule 33: We believe it should be specified that one of the meetings of the Standing Committee should coincide with the Group's general session.

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